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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA**

**GOTT BROTHERS DEVELOPMENT,)
LLC, a limited liability company)
Plaintiff,)**

vs.

**JEAN NICHOLSON and DEAN)
NICHOLSON, individually and as Trustees)
of the DEAN AND JEAN T. NICHOLSON)
FAMILY TRUST; VIRGINIA TOOGOOD,)
individually and as the Trustee of the)
VIRGINIA TOOGOOD FAMILY TRUST,)
COMPRISING VIRGINIA T. TOOGOOD)
AND DOES 1-20, INCLUSIVE,)**

Defendants.

Case No. CV 09-00807 PJH

**JOINT STIPULATION OF DISMISSAL
AND [~~PROPOSED~~] ORDER**

JUDGE: Hon. Phyllis J. Hamilton

Whereas Plaintiff and Counter-Defendants GOTT BROTHERS DEVELOPMENT, LLC, a California limited liability company. JOEL GOTT, an individual and DUNCAN GOTT,

1 an individual ("GOTT"), and Defendants and Counter-Complainants JEAN NICHOLSON and
2 DEAN NICHOLSON, individually and as Trustees of the DEAN AND JEAN T. NICHOLSON
3 FAMILY TRUST and VIRGINIA TOOGOOD, individually and as the Trustee of the
4 VIRGINIA TOOGOOD FAMILY TRUST COMPRISING VIRGINIA T. TOOGOOD
5 ("NICHOLSON/TOOGOOD") (collectively the "Parties") reached a settlement before the
6 Honorable Magistrate Judge Ryu, the terms of which were put on the record on January 9,
7 2012. Accordingly, the above matter may now be dismissed. As part of the settlement put on
8 the record on that date, Judge Ryu retained jurisdiction, and shall continue to retain such
9 jurisdiction after filing of this stipulation and dismissal, to resolve any dispute concerning the
10 drafting of settlement documents by binding and non-appealable decision. Further, as the
11 settlement included installment payments from GOTT to NICHOLSON/TOOGOOD, the last
12 of which is due and payable on June 1, 2014, the Court shall retain jurisdiction on application
13 of NICHOLSON/TOOGOOD to set aside this dismissal and enter judgment upon the
14 settlement on the record or instead pursuant to subsequent written settlement agreement
15 executed by the Parties.

16 IT IS HEREBY STIPULATED by the Parties and their attorneys of record that the
17 Court respectfully confirm the dismissal of the above action without prejudice pursuant to Rule
18 41(a)(1)(ii) of the Federal Rules of Civil Procedure.

19 WHEREFORE, the Parties stipulate that this case be dismissed without prejudice
20 pursuant to Rule 41(a)(1)(ii) of the Federal Rules of Civil Procedure upon the terms set forth
21 herein.

22 Jointly stipulated this ____ day of February, 2012.

23
24 THE LAW OFFICES OF JAMES R. ROSE

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27 JAMES R. ROSE
Attorneys for Plaintiff and Counter-Defendants

THE LAW OFFICES OF PATRICK
MCGOVERN

PATRICK MCGOVERN
Attorneys for Defendants and Counter-Claimants

ORDER

The Joint Stipulation of Dismissal having been submitted by the parties, and good cause appearing therefore,

IT IS HEREBY ORDERED

1. The case is dismissed without prejudice pursuant to Rule 41(a)(1)(ii) of the Federal Rules of Civil Procedure;

2. Magistrate Judge Donna M. Ryu to resolve any dispute concerning the drafting of settlement documents by binding and non-appealable decision; and

3. The Court retains jurisdiction upon application of NICHOLSON/TOOGOOD to set aside this dismissal and enter judgment upon the settlement on the record or instead pursuant to subsequent written settlement agreement executed by the Parties.

IT IS SO ORDERED

Dated: February 28, 2012

